



COMMONWEALTH of VIRGINIA
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MEMORANDUM

TO: Dr. Paul Ferrara, Director
Department of Forensic Science

FROM: James O. Towey
Senior Assistant Attorney General

DATE: November 21, 2006

SUBJECT: Authority to develop public participation guidelines.

In response to a request from the Department of Forensic Science, I have reviewed the proposed regulations, to be set forth in 6 VAC 40-50-10 *et seq.*, relating to the approval of field tests for the detection of marijuana plant material. During its 2006 Session, the General Assembly amended Virginia Code § 19.2-188.1 to require the Department to approve, as accurate and reliable, marijuana field tests for use by law-enforcement officers to enable them to testify to the results obtained in any trial for a violation of § 18.2-250.1 regarding whether or not any plant material, the identity of which is at issue, is marijuana. *See, 2006 Va. Acts. c. 447.* Upon review, I find the proposed regulations to be constitutional, consistent with § 19.2-188.1 of the Code of Virginia, and in conformity with existing statutory provisions.

Please note that this memorandum is intended to provide legal interpretations and legal advice, not policy advice. To the extent that this communication may advise you that certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency and this communication should not be construed as a comment for or against the merits of such action.

